



## **Draft Minutes of the State Board of Health**

**December 13, 2006**

Hilton Seattle Airport & Conference Center, 17620 Pacific Highway South, SeaTac, WA 98188

### **SBOH Members Present:**

The Honorable Mike Shelton, Vice Chair  
The Honorable David Crump, PhD  
Keith Higman  
Frankie T. Manning, MN, RN

Patricia Ortiz, MD  
Maxine Hayes, MD, MPH  
Karen VanDusen

### **SBOH Member Absent:**

Mel Tonasket

### **State Board of Health Staff Present:**

Craig McLaughlin, Executive Director  
Desiree Robinson, Executive Assistant  
Heather Boe, Communications Consultant  
Christy Curwick, Health Policy Analyst

Laurie Fait, Administrative Assistant  
Tara Wolff, Health Policy Analyst  
Melissa Burke-Cain, Assistant Attorney General

### **Guests and Other Participants:**

Anthony Anton, Washington Restaurant Association  
Sofia Aragon, Department of Health  
Jennifer Aspelund, Citizen  
Nancy Bernard, Department of Health  
Mark Cooper, Citizen  
Michele Davis, Department of Health,  
David DeLong, Tacoma-Pierce County Health  
Department  
Mitch Denning, Consultant  
Martin Durkan, WillScott  
Diane Evans, Tacoma-Pierce County Health  
Department  
Lori Ferko, Tacoma-Pierce County Health  
Department  
Dave Gifford, Department of Health  
Lindsay Hurd, Group Health  
Peggy Johnson, Department of Health  
Lisa Liebert, Edmonds School District  
Mary Sue Linville, Washington Schools Risk  
Management Pool

Paisley Madison, McDonald's Corporation  
Maria Mason, Coalition for Safe Schools  
Tom McBride, McDonald's Corporation  
Nancy Napolilli, Department of Health  
Drew Noble, Citizen  
Donna Oberg, Public Health Seattle & King County  
Kathy O'Toole, Washington Education Association  
Brian Peyton, Department of Health  
Lesley Schulte, Group Health  
Thelma Simon, Cle Elum Parent  
Jennifer Smith, McDonald's Corporation  
Denise Stiffarm, Puget Sound Schools Coalition  
Dr. Robert Van Slyke, Bethel School District  
Cathy Wasserman, Department of Health  
Steve Wilt, Citizen  
Margo Wootan, Center for Science in the Public  
Interest

The Honorable Mike Shelton, WSBOH Acting Chair, called the public meeting to order at 9:05 a.m. and read from a prepared statement (on file).

## **1. APPROVAL OF AGENDA**

***Motion:*** *Approve December 13, 2006 agenda*

*Motion/Second: Crump/Ortiz. Approved unanimously*

**2. ADOPTION OF OCTOBER 18, 2006 AND NOVEMBER 8, 2006 MEETING MINUTES**

*Motion: Approve the October 18, 2006 and November 8, 2006 minutes*

*Motion/Second: Crump /Manning. Approved unanimously*

**3. SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS**

Craig McLaughlin, WSBOH Executive Director, discussed Board vacancies. He announced that Chair Kim Thorburn resigned December 1. There are now two vacancies. Mike Shelton, as vice chair, is acting chair according to the bylaws. A quorum of the Board is normally six members; a quorum today is five members. He said he has been discussing a health officer appointee with the Washington State Association of Local Public Health Officials. A health and sanitation position reserved for a health official from a federally recognized tribe has been open since July 1. Member Mel Tonasket is providing care to his ailing wife, and would resign if asked. Craig requested nominations from the Board and asked if any members were interested being chair. Frankie Manning, WSBOH Member, asked if the Governor's has a preference. Mr. McLaughlin said the Governor wants options.

Mr. McLaughlin discussed several rule making activities. He said staff drafted a memo to the Board about Dr. Mark Cooper's written testimony from November concerning the school environmental health and safety rule. The memo is being reviewed by the Board's counsel. The Department of Health (DOH) is preparing a CR-101 to initiate review of the Board's zoonotic disease rules, focusing on psittacosis and rabies. The rule will be revised to better match national guidelines. DOH is also drafting a CR-101 to initiate rule making on homeless shelters, many of which currently fall under the transient accommodations rule. Two years ago, the Board heard concerns from shelter operators about the applicability of such requirements. There was support for basic standards, registration, and authority for complaint investigation by local health officers. Karen VanDusen, WSBOH Member, asked if tent cities in King County would fall under this rule. Mr. McLaughlin responded that the issue will be discussed during rule making, but they would not fall under the transient accommodations definition. Member Manning said food preparation, sleeping, bathing, and many other issues must be considered. The Board, based on DOH advice, will need to weigh rules that are either limited to the transient accommodation definition or expanded to cover more types of facilities under the Board's broader and more general authority, Mr. McLaughlin said. Member VanDusen suggested the rule could encompass many types of housing. Mr. McLaughlin said an option would be to develop an entirely new rule chapter. Member VanDusen said this could be as controversial as the school rule. Acting Chair Shelton commented that when considering rules for these facilities, we must keep in mind that the alternative of people living under a bridge would be much worse. Mr. McLaughlin also provided an update on revisions to the animal disposal rule. He said that staff is waiting on the release of Washington State Department of Agriculture draft rules to assure consistency. Mr. McLaughlin notified the Board that it had received a petition to add pneumococcus to the list of diseases children entering childcare and school must be vaccinated against. He said this request would be on the Board's January agenda and the likely recommendation would be to form a technical advisory group to evaluate the PCV7 vaccine, also known as Prevnar, against the Board's established criteria for school entry requirements.

Mr. McLaughlin asked the members to review a proposed meeting schedule for the Board in 2007 in their packets under Tab 03.

*Motion: Approve the proposed meeting schedule of the Board for 2007.*

***Motion/Second:** Crump/Manning. Approved unanimously*

Board members discussed Dr. Kim Marie Thorburn's resignation and Acting Chair Shelton directed staff to include an agenda item for the January meeting recognizing her service to the Board.

#### **4. DEPARTMENT OF HEALTH UPDATE**

Maxine Hayes, State Health Officer and WSBOH Member, talked about the budget announcements that would be coming shortly from the Governor's office. She said the budget would continue to ensure that all children have access to vaccinations. Public health funding will be addressed, although the amount of new state funding the Governor will propose is not known. Dr. Hayes then discussed the state's performance in recently released national rankings. Washington scored an eight out of a possible 10 in emergency preparedness, up two points from last year, although the measures used for the rating change each year. Washington received the only perfect score on highway safety ranking highway laws that reduce and prevent injury. In the United Health Foundations healthiest state in the nation rankings, Washington was 15th, down one notch. The Department has launched a food safety school, holding a new inspector training. It will add more classes. Dr. Hayes discussed DOH efforts regarding *salmonella*. She mentioned her selection to the Institute of Medicine and reported that a Washington State Academy of Sciences will be in place by April 2007 to advise on the science related to policy issues. Keith Higman, WSBOH Member, and Member VanDusen commended DOH on the food safety school. Board members discussed the criteria for the United Health Foundation rankings and the state's relative strengths and weaknesses. Member Crump encouraged inclusion of mental health professionals in the Washington State Academy of Sciences and asked for a follow-up report on the academy's focus and membership.

#### **5. ANNUAL REPORT TO THE GOVERNOR, REVIEW AND COMMENT ON PROPOSED DRAFT**

Heather Boe, WSBOH Staff, presented the draft annual report to the Governor. See Tab 05.

***Motion:** The Board approves in concept the draft text of the 2006 Annual Report as submitted, directs staff to incorporate suggestions from today's discussion as necessary, and authorizes the Chair to approve a final document for publication.*

***Motion/Second:** Crump/VanDusen. Approved unanimously*

Mr. McLaughlin commended Heather for her work on the in-house design and production. Member Manning admired the images of health throughout the document. Member Crump asked where mental health was mentioned. Mr. McLaughlin explained that this information is on page 7 and agreed to work with Member Crump on minor revisions to improve that section.

#### **6. LEGISLATIVE PREVIEW, REVIEW, AND COMMENT ON PRELIMINARY SENSE OF THE BOARD**

Mr. McLaughlin provided a brief overview of the 2007 Legislative session. He noted the impact that the Health Impact Review process will have on the Board's workload during session is a major unknown, but a demanding session is expected. He directed Board members to the draft Statement of Policy on Possible 2007 Legislative Issues and asked if they would like any changes. Member VanDusen said she liked the draft and addressed the footnote on page two regarding authority over large onsite sewage systems. Members Higman, Shelton, and Manning discussed the issue. The sense of the Board was that the language suggested in the footnote be included in the text. Member Manning asked that the statement for 2008 address workplace safety.

*The Board took a break at 11:05 a.m. and reconvened at 11:15 a.m.*

## 7. APPROVAL OF HEALTH IMPACT REVIEW PROCESS

Member Manning provided some background on health impact reviews and explained that the forms and procedures were being presented for the Board's review and approval. Christy Curwick, WSBOH Staff, reviewed the Health Impact Review Request Form in more detail. Dr. Hayes asked staff to add geography as a determinant of health. Member VanDusen suggested that it would be helpful to indicate if the requester anticipated that disparities would be worsened or improved by the proposal. Member Ortiz asked that obesity be added. Ms. Curwick then discussed the Health Impact Review procedures. Member VanDusen asked if a request could be made to review budget bills and suggested that due to their scope, those reviews could be very complex. Dr. Hayes stated that budget is policy and discussions followed on how to address this issue. Member VanDusen commented on the difficulty of completing a review if a key agency declines to assist. Member Higman asked whether input from the Board would be on a member-by-member basis. Member VanDusen requested an update from staff during the June meeting. Dr. Hayes stressed that the intent is to raise awareness about potential impacts that the actions of state agencies may have on disparities. Vice Chair Shelton stressed that legislation sometimes has unexpected impacts.

***Motion:** The Board approves the Health Impact Review Request Form and the Health Impact Review procedures proposed by the Governor's Interagency Council on Health Disparities.*

***Motion/Second:** Crump/Manning. Adopted unanimously*

## 8. PETITION FOR RULE MAKING—CONSIDER ADDING CJD TO WAC 246-101-010

Acting Chair Shelton introduced a request from Steven M. Wilt to add Creutzfeldt - Jakob disease (CJD) to the list of notifiable conditions in WAC 246-101-010. Mr. McLaughlin reviewed the Board's policy for addressing petitions for rule making. He recommended that the petition be denied with the understanding it will be addressed by the Board the next time the rule is updated. He discussed the nature of the disease. Mr. Wilt was invited to testify. He said his wife was afflicted by CJD and died rapidly. He discussed the need for accurate statistics to encourage research. He mentioned medical concerns regarding transmission from blood transfusions. He said he is concerned that reporting is not mandatory in Washington State and not all doctors report cases in Washington properly. He asked that CJD be added immediately to the list of notifiable conditions and that the Board not wait for a future update of the rule. Member VanDusen asked when the rule chapter would be opened again. Mr. McLaughlin responded that updates are made periodically and no date has been set. Resources for rule making are limited. Members VanDusen and Higman asked that more information be provided to the Board about prion diseases. Member Crump asked why 35 states consider CJD notifiable, but we do not. Melissa Burke-Cain, Board Counsel, said that the Board has 60 days from receipt of the petition to respond. Dr. Hayes stated that we do have a way to capture this information, even though reporting is not specifically required in the rule. She said that DOH brings people together to discuss all notifiable conditions. Diagnoses of CJD is often missed because not everyone is autopsied at death.

***Motion:** The Board denies the petition from Steven Wilt to initiate rule making at this time to add Creutzfeldt - Jakob disease (CJD) to the list of diseases that specifically must be reported to public health authorities under Chapter 246-101 WAC. The Board requests the Department of Health to encourage the reporting of cases of all prion-caused diseases in humans to public health authorities under the category of "rare diseases of public health significance" for the purpose of helping evaluate whether to consider adding prion-caused diseases in humans, including CJD, to the list of notifiable conditions during the next revision of Chapter 246-101 WAC.*

***Motion/Second:** Manning/Crump.*



After further discussion, Member VanDusen moved to amend the original motion.

***Motion to Amend:*** Amend the original motion to read, “The Board denies the petition from Steven Wilt to initiate rule making at this time to add Creutzfeldt - Jakob disease (CJD) to the list of diseases that specifically must be reported to public health authorities under Chapter 246-101 WAC. The Board requests the Department of Health to encourage the reporting of cases of all prion-caused diseases in humans to public health authorities under the category of ‘rare diseases of public health significance.’ In addition, the Board requests that additional information be provided to it to help evaluate whether and when to consider adding prion-caused diseases in humans, including CJD, to the list of notifiable conditions in Chapter 246-101 WAC.”

***Motion/Second:*** VanDusen/Manning. Approved unanimously.

## 9. MENU LABELING REGULATIONS

Patricia Ortiz, WSBOH Member, introduced the topic. Tara Wolff, WSBOH Staff, described the documents behind Tab 09. Margo Wootan, Center for Science in the Public Interest, discussed the obesity problem and the benefit of providing consumers with nutritional information to help them make healthier menu choices. (See Ms. Wootan’s presentation for more information). Member Crump said he recalled reading about a study showing that Americans eat the food portion put in front of them, no matter the size. Ms. Wootan said that there are several studies corroborating this finding. Member Ortiz asked if Ms. Wootan’s proposal would come back to the Board for additional action. Mr. McLaughlin said that was up to the Board and discussed different options. Dr. Hayes commented that our desire to be the healthiest state in the nation is hindered by the fact that 2/3 of Washington residents are obese or overweight. Women are leading the decisions that affect the increase in obesity and overweight, because of the need to save time in their lives. The food industry caters to that need. We need to foster a better relationship to assure that informed choices are available. Ms. Wootan suggested that the cost to the state of implementing this policy would be minimal. The cost to the restaurant industry would not be prohibitive. About half of the restaurant chains now provide some nutritional information. Member Manning asked that the issue be brought back to the Board for further consideration before July 2007. Member Higman said he believed that the food code is not the appropriate method for implementing a food nutrition policy. He recommended that the Board explore other avenues. Melissa Burke-Cain, WSBOH Counsel, advised that the Board would need to examine the scope of its rule making authority. Member VanDusen asked about the trans-fat ban in New York. Ms. Wootan explained that New York City adopted both a trans-fat ban in restaurants and a nutrition-labeling requirement.

*The Board recessed for lunch at 12:40 p.m. and reconvened at 1:27 p.m.*

## 10. PROMOTING HEALTHY EATING IN RESTAURANTS

Dr. Ortiz introduced the topic. Ms. Wolff directed the Board members to the documents behind Tab 10 and introduced the panelists. Anthony Anton, president and CEO of the Washington Restaurant Association, stated that he is committed to working towards a healthier society. He delivered a presentation giving an overview of the industry in Washington and discussing menu diversity. There is a growing trend to offer healthy menu choices for children. He states that we do not need a policy shift, but rather a cultural shift in what people choose. The restaurant industry does not believe that labeling requirements are necessary. Education is changing people, he said, not labeling. Labeling has not reduced sales of Twinkies or unhealthy children’s cereals. He proposed a partnership between the industry and public health to educate people about healthy choices. He offered to sit on a panel to help coordinate these efforts. Member Higman requested clarification of the regulatory statute. Member VanDusen asked for the different definitions of a quick menu and a

limited menu restaurant. Member Ortiz asked if the labeling would help with the educational efforts he promotes. Mr. Anton offered to be a willing partner in working to the best end. He commented that the cost of a nutritional analysis for all of the menu items could cut significantly into the small average profit margin of many restaurants. Dr. Hayes thanked Mr. Anton for his willingness to learn. She asked him to consider the epidemiology of the population of this state. A large part of the population would benefit from as much information as possible.

Jennifer Smith, director of communications for McDonald's Corporation, talked about the industry's movement toward menu labeling and promoting healthy eating. She stated that there is a common goal and that nutrition labeling might help, but she also said this is a complex issue. McDonald's introduced menu labeling more than 30 years ago. Listening to their customers has shown that there is not a "one size fits all" approach. Ms. Smith shared samples of packaging with nutrition labels. She discussed a multi-pronged approach to the problem of obesity, including physical activity. She described McDonald's Web site information. McDonald's also has started to phase in simplified nutrition labeling. Ms. Smith described the "Passport to Play" program developed with support from McDonald's, which is being adopted by schools. Play Places provided physical activity for children in McDonald's restaurants. McDonald's is committed to keep working to evolve communication and menu choices to help make a difference. Member Manning thanked McDonald's for taking a leadership role. She asked McDonald's to consider subtle messages in packaging and advertising. Member Crump thanked the company for Ronald McDonald House and the community work the company does. Vice Chair Shelton said consumers are responsible for making their choices. There is value in letting people understand what they are getting, but that should not take away from people needing to take responsibility for their own choices. Dr. Hayes said environments enhance or constrain behaviors. Environments can be modified to enable better choices. She gave the example of seat belts requirements.

## 11. INFANT MORTALITY AND HEALTH DISPARITIES STUDY SESSION

Member Manning introduced the topic with assistance from Ms. Wolff. Cathy Wasserman, noninfectious disease epidemiologist for the Department of Health, discussed infant mortality trends and racial and ethnic disparities in Washington State (see presentation for more information). Dr. Hayes said her "balcony-view" of the subject is deeply troubling. The U.S. goal is to have infant mortality rate of 4.5 per thousand by 2010. African American statistics are getting worse instead of better. Dr. Hayes stressed that what we are doing is not working. She discussed how maternal health directly correlates to infant mortality, and discussed the concept of "preconception health." Ideally, she said, a mother's health should be examined prior to pregnancy. Healthy women lead to healthy mothers and in turn to healthy babies. Dr. Ortiz said her observations over the last 20 years in maternity care support this approach and she is excited about this program.

*The Board took a break at 2:55 p.m. and reconvened at 3:00 p.m.*

## 12. BOARD MEMBER COMMENTS AND CONCERNS

Member Crump thanked the staff for a good job on the minutes. He requested an email update on the Governor's budget and pertinent legislative issues prior to the next meeting. Member Higman shared information about the environmental health conference he attended in Atlanta. The three major themes were global climate change, the built environment's impact on health, and engaging communities to solve environmental health issues without relying totally on government. Mr. McLaughlin asked Board members to communicate with staff if they might miss a meeting.

### 13. PUBLIC TESTIMONY

Mark Cooper, Citizen, commended the Board on the draft recommendations on the school rule. He recommended that a public health forum of stakeholders be convened in Olympia to discuss funding. He said legislators and the Governor should be brought in. He encouraged using the Healthy Schools Network as a source of information. He encouraged seeking creative funding methods. He recommended that plumbing protections, such as requiring dielectric couplers between different types of metal, be included in the Board's school rules.

Denise Stiffarm, Puget Sound Schools Coalition, commented on the Board's Environmental Health Committee recommendations on the school rule. She appreciated that the recommendations build on the work of the School Rule Development Committee. She concurred that the K-12 Health and Safety Guide is an appropriate way to address discretionary activities and supported building efficiencies into the school rule. She requested a thorough fiscal analysis during development of the school environmental health rules and reaching out to the Legislature to discuss funding.

Jennifer Aspelund, Citizen, said that the current system of environmental health protections in schools is not working. She encouraged the Board to move forward following the recommendations of the School Rule Development Committee.

Drew Noble, H<sub>2</sub>O Management Services, requested an emergency order to solve a problem created by Senate Bill 6225. This bill removed the ability of certified operators to work on domestic water systems unless they have specialty plumber or electrician certification. He requested an amendment to Board rules to require a certified water system operator be present when a plumber or electrician works on a water system. He said that there is urgency because the new statute becomes effective on January 1, 2007. He has been discussing this with the Department of Labor and Industries and with Gregg Grunenfelder of DOH. The Department of Labor and Industries licenses plumbers and electricians. DOH licenses certified operators.

Mary Sue Linville, Washington Schools Risk Management Pool, applauded the recommendations of the Board's Environmental Health Committee on the school rule revision. She pledged her commitment to work through to completion of the rule process.

Mitch Denning, lobbyist for the Alliance of Education Associations (four education associations), said he is pleased with the flavor of the recommendations of the Board's Environmental Health Committee on the school rule. He said the associations he represents have concerns about under- or un-funded mandates. He said the involvement of Education Service Districts is critical and supports the industrial hygienist recommendation. He requested a copy of the DOH School Program decision package. He offered to participate in work on the school rules.

Maria Mason, Coalition for Environmentally Safe Schools, thanked the Board for the recommendations of the Board's Environmental Health Committee on school rule next steps. She encouraged involving Claire Barnett of the Healthy Schools Network. She also encouraged agencies to involve the Governor, who addressed environmental health problems in schools when she was attorney general. She asked that her group to be included in any future stakeholder meetings.

Thelma Simon, Cle Elum Citizen, thanked the Board for the recommendations of the Environmental Health Committee on the school rule. She discussed unresolved indoor air quality

issues in the Cle Elum School District. She expressed hope that the rule will have enough teeth to deal with these issues. Children have no ability to choose to avoid school environments.

Kathy O'Toole, Washington Education Association (WEA), referred the board to the letter submitted by WEA (behind Tab 13). The WEA supports the concepts in the recommendations of Board's Environmental Health Committee regarding operation and maintenance; drinking water testing; open communication; and waivers requiring a public process. The WEA will support funding recommendations and development of an appeals process. She said that WEA would be willing to use its influence with legislators, through its lobbyist, to support common goals.

#### 14. SCHOOL ENVIRONMENTAL HEALTH—NEXT STEPS

Member Higman reviewed the work of the Board on the school rule up to this point. He asked Mr. McLaughlin to explain the memo from the Board's Environmental Health Committee concerning next steps, which Mr. McLaughlin did. Member Higman and Acting Chair Shelton thanked Ned Therien and Craig McLaughlin for pulling together the thoughts of the committee. Mr. McLaughlin commented that he was very encouraged to hear testimony today from many stakeholders that were supportive of the direction proposed by the committee. Member Manning commented that she particularly was encouraged during the process by the many agencies agreeing to work together to find solutions. Acting Chair Shelton said the core of this proposal is funding. Dr. Hayes shared that she has listened to over ten years of testimony on school health. She expressed appreciation from Secretary Selecky for the work done to expand the conversation, reaching out to other agencies and stakeholders. DOH will develop a timeline and report back to the Board. She mentioned the work of Mark Soltman of DOH in developing the matrix on agency responsibilities (which informed the Board at its November meeting). Dr. Hayes suggested that consideration of an appeals process should include possibly specifying non-state entities, particularly school districts.

***Motion:** The Board accepts the recommendations of its Environmental Health Committee and directs staff to work with its partners in school environmental health and safety to carry out the recommendations. The Board asks the Department of Health to develop a proposed draft revision to chapter 246-366 WAC—Primary and Secondary Schools that reflects these recommendations and the original goals established for the rule revision.*

***Motion/Second:** Crump/Manning. Approved unanimously*

#### 15. REQUEST BY DOH FOR DELEGATION OF RULE MAKING—WAC 246-282-005 SHELLFISH

Member Higman reviewed a DOH request for delegation of the Board's authority for rule making regarding an update to shellfish sanitation rules. See materials behind Tab 15.

***Motion:** The Board delegates to the Department of Health authority to adopt a revision to WAC 246-282-005 for the purpose of referencing the 2005 version of the National Shellfish Sanitation Program's Guide for the Control of Molluscan Shellfish.*

***Motion/Second:** Manning/Ortiz. Approved unanimously*

#### ADJOURNMENT

Acting Chair Shelton adjourned the meeting at 4 p.m. He requested it be noted in the record that the meeting finished an hour early!